

THE OFFICE OF CONTRACTING AND PROCUREMENT

NOTICE OF FINAL RULEMAKING

The Chief Procurement Officer of the District of Columbia, pursuant to authority granted by sections 204 and 321 of the District of Columbia Procurement Practices Act of 1985, as amended, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code §§ 2-302.04 and 2-303.21 (2001 and 2005 Supp.)) (PPA), and Mayor's Order 2002-207 (dated December 18, 2002), hereby gives notice of the adoption of the following final rules amending Chapter 18 of Title 27 of the District of Columbia Municipal Regulations (Contracts and Procurements). The rules amend sections 1800-1803 of Chapter 18 concerning the processing of small purchases to authorize the Office of Contracting and Procurement to use small purchase procedures for the procurement of services and supplies for the Office of the Chief Technology Officer when the total of the procurement does not exceed \$500,000, as authorized by section 321 of the PPA (D. C. Official Code § 2-303.21 (2005 Supp.)).

The rules were approved as emergency and proposed rules on August 22, 2005 and published in a Notice of Emergency and Proposed Rulemaking in the *D. C. Register* on September 30, 2005, at 52 DCR 8842. Since the emergency rules expired on December 20, 2005, a second Notice of Emergency Rulemaking was approved on that date to adopt the following rules pending approval by the Council of the District of Columbia of the final rules. No changes have been made to the rules as proposed.

The Council of the District of Columbia approved these rules on June 9, 2006 by Resolution 16-684, pursuant to section 205(b) of the PPA (D. C. Official Code § 2-302.05(b) (2001)).

These rules shall become effective upon publication in the *D. C. Register*.

CHAPTER 18

SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

Sections 1800 through 1803 are amended to read as follows:

1800 USE OF SMALL PURCHASE PROCEDURES

- 1800.1 The small purchase procedures set forth in this chapter may only be used for the procurement of supplies, services, and other items when the total of the procurement does not exceed five hundred thousand dollars (\$500,000) for procurements for the

Metropolitan Police Department (MPD) and the Office of the Chief Technology Officer (OCTO) and one hundred thousand dollars (\$100,000) for all other agencies, in accordance with § 321 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986, D. C. Law 6-85 (Act) as amended effective July 23, 2002 (D.C. Official Code § 2-303.21).

- 1800.2 A contracting officer shall not use small purchase procedures when the requirement can be met by using a requirements contract, an indefinite quantity contract, a federal supply schedule, or other required source of supply as set forth in Chapter 21 of Title 27 DCMR.
- 1800.3 A contracting officer shall not use small purchase procedures when the procurement requirement is initially estimated to exceed five hundred thousand dollars (\$500,000) for procurements for MPD and OCTO or one hundred thousand dollars (\$100,000) for all other agencies, even though the resulting award does not exceed the applicable small purchase limit.
- 1800.4 A contracting officer shall not split a procurement totaling more than the applicable small purchase limitation into several purchases that are less than the limit in order to permit the use of the small purchase procedures.
- 1800.5 A contracting officer shall not parcel, split or divide a procurement requirement, or purchase a procurement requirement over a period of time, in order to avoid the dollar limitations for use of small purchase procedures.
- 1800.6 A contracting officer shall use the small purchase procedure that is most suitable, efficient, and economical based on the circumstances of each procurement.

1801 NON-COMPETITIVE SMALL PURCHASES

- 1801.1 Except as provided in § 1801.2, a contracting officer may make a procurement for an amount of ten thousand dollars (\$10,000) or less without obtaining competitive quotations if the contracting officer determines that the purchase is in the best interest of the District government considering the price and other factors (including the administrative cost of the purchase).
- 1801.2 For small purchases for OCTO, a contracting officer may make a procurement for an amount of twenty-five thousand dollars (\$25,000) or less without obtaining competitive quotations if the contracting officer determines that the purchase is in the best interest of the District government considering the price and other factors (including the administrative cost of the purchase).
- 1801.3 A contracting officer shall distribute non-competitive small purchases equitably among suppliers. When practical, a contracting officer shall solicit a quotation from a vendor other than the previous supplier before placing a repeat order.

1802 COMPETITIVE SMALL PURCHASES

- 1802.1 Except as provided in §§ 1802.2, 1802.3 and 1802.4, in order to promote competition to the maximum extent practicable, and to ensure that the purchase is in the best interest of the District government, considering price and other factors (including the administrative cost of the purchase), a contracting officer shall solicit quotations as follows:
 - (a) For each procurement of goods and services in an amount greater than ten thousand dollars (\$10,000) and less than or equal to twenty-five thousand dollars (\$25,000), the contracting officer shall obtain at least three (3) oral quotations from vendors for the goods and services to be purchased;

- (b) For each procurement of goods and services for more than twenty-five thousand dollars (\$25,000) and less than or equal to one hundred thousand dollars (\$100,000), the contracting officer shall obtain at least three (3) written quotations from vendors for the goods and services to be purchased; and
- (c) The contracting officer shall, unless the award is to take into consideration factors other than price or price-related factors, award the contract to the vendor providing the lowest priced quotation for the goods or services solicited.

1802.2 Except as provided in § 1802.4, for small purchases for MPD, a contracting officer shall solicit quotations as follows:

- (a) For each procurement for goods and services in the amount greater than ten thousand dollars (\$10,000) and less than or equal to twenty-five thousand dollars (\$25,000), the contracting officer shall obtain at least three (3) oral quotations from vendors for the goods and services to be purchased;
- (b) For each procurement for goods and services for more than twenty-five thousand dollars (\$25,000) and less than or equal to five hundred thousand dollars (\$500,000), the contracting officer shall obtain at least three (3) written quotations from vendors for the goods or services to be purchased; and
- (c) The contracting officer shall, unless the award is to take into consideration factors other than price or price-related factors, award the purchase order to the vendor providing the lowest priced quotation for the goods or services solicited.

1802.3 Except as provided in § 1802.4, for small purchases for OCTO, a contracting officer shall solicit quotations as follows:

- (a) For each procurement for goods and services for more than twenty-five thousand dollars (\$25,000) and less than or equal to five hundred thousand dollars (\$500,000), the contracting officer shall obtain at least three (3) written quotations from vendors for the goods or services to be purchased; and
- (b) The contracting officer shall, unless the award is to take into consideration factors other than price or price-related factors, award the purchase order to the vendor providing the lowest priced quotation for the goods or services solicited.

1802.4 If the contracting officer determines that it is impractical under the circumstances to obtain the number of quotations required under §§ 1802.1, 1802.2 or 1802.3 due to time constraints, lack of available sources, or other factors set forth in § 1802.6, or if the contracting officer, despite a good faith effort, is unable to obtain the required number of quotations, the contracting officer may obtain quotations from fewer vendors than required in §§ 1802.1, 1802.2 or 1802.3. The contracting officer must document his or her attempts to obtain the required number of quotations.

1802.5 If the contracting officer determines that the best interest of the District or other factors set forth in § 1802.6 indicate that quotations should be obtained from more than the number of sources required under §§ 1802.1, 1802.2 or 1802.3, the contracting officer shall obtain additional quotations.

1802.6 In determining whether or not to obtain quotations from more or fewer vendors than required in §§ 1802.1, 1802.2 or 1802.3, the contracting officer shall consider the following factors:

- (a) The nature of the item or service to be purchased and whether it is highly

competitive and readily available in several makes or brands, or if it is relatively non-competitive;

- (b) Information obtained in making recent purchases of the same or similar item;
- (c) The urgency of the proposed purchase;
- (d) The dollar value of the proposed purchase; and
- (e) Past experience concerning specific contractor prices.

1802.7 For procurements in excess of the amounts specified in § 1801, a contracting officer may award a small purchase solicitation on a sole source basis when the contracting officer determines that one (1) of the conditions in section 305(a) of the Act is satisfied, in accordance with chapter 17 of title 27 DCMR.

1802.8 Except for procurements made in accordance with section 1802.3, a contracting officer may orally solicit quotations for procurements valued at twenty-five thousand dollars (\$25,000) or less. However, a contracting officer shall use a written solicitation in the following circumstances:

- (a) When the contracting officer determines that obtaining oral quotations is not considered economical or practical; or
- (b) When extensive specifications are involved.

1802.9 A contracting officer shall, to the greatest extent practicable under the circumstances, maximize competition for small purchases and shall not limit solicitations to suppliers of well known and widely distributed makes or brands, or solicit on a personal preference basis.

1802.10 Each contracting officer shall maintain a small purchase source list (or lists, if more convenient). The list shall indicate whether the business is a certified local, small, resident owned or disadvantaged business enterprise, for the purpose of applying preferences to be awarded in accordance with § 4 of the Equal Opportunity for Local, Small and Disadvantaged Business Enterprises Act of 1998, effective April 27, 1999, D. C. Law 12-268, as amended by § 2(c) of the Equal Opportunity for Local, Small and Disadvantaged Business Enterprises Amendment Act of 2000, effective October 4, 2000, D. C. Law 13-169 (D. C. Official Code § 2-217.03(b)).

1803 DETERMINATION OF REASONABLE PRICE AND AWARD

1803.1 The contracting officer shall determine that the price to be paid to the successful offeror is fair and reasonable.

1803.2 When only one (1) response is received to a request for competitive quotations, or the price variance between multiple responses is so great that it reflects a lack of adequate competition, the contracting officer shall include a statement in the contract file giving the basis for the determination of a fair and reasonable price.

1803.3 The determination that a proposed price is fair and reasonable may be based on the following:

- (a) Competitive quotations;
- (b) Comparison of the proposed price with (i) prices found reasonable on previous purchases, (ii) current price lists, (iii) catalogs, (iv) advertisements or (v) similar items;

(c) Value analysis;

(d) The contracting officer's personal knowledge of the item being purchased; or

(e) Any other reasonable basis.

1803.4 The contracting officer shall establish and maintain records of oral and written price quotations and include the record in the purchase file. The records shall consist of the names of the suppliers contacted and the prices and other terms and conditions quoted by each.

1803.5 The contracting officer's records of solicitations shall include, at a minimum, notes of abstracts to show prices, delivery, references to printed price lists used, the vendor or vendors contacted, and other pertinent data.

1803.6 The contracting officer shall retain records supporting small purchases for a minimum of three (3) years.